The articles assailed the legal title of the plaintiff to the office he was rightly enjoying and his legal right to be a candidate for it. In addition it subjected him to public hatred and contempt and lessened him in public esteem and confidence. The controlling principle is well enough settled."

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**Revenue Laws—Seizure of Automobile Containing Untaxed Spirituous Liquors—Rights of Innocent Lienholder.**—The Collector of Internal Revenue, on January 19, 1918, seized one Saxon automobile in which Sandy Hairston was transporting spirituous liquors on which the tax had not been paid. Thereafter forfeiture proceedings were instituted under R. S. § 3450. Mundy, the holder of notes secured by a deed of trust on the automobile intervened, claiming that the proceeds of sale should be applied first to the satisfaction of his debt; thus raising the question whether the forfeiture displaced his lien or interest in the property. Mundy, a dealer, on August 10, 1917, sold the automobile to one Moore for $450, taking for the unpaid portion of the purchase money, payable in monthly installments, thirteen notes, secured by a deed of trust covering the property, recorded August 20, 1917. At the time of seizure by the Collector, there was unpaid on the notes $190, of which $80 was overdue. By the terms of the deed of trust and under the laws of Virginia, Mundy had the right to require the trustee to seize the property and sell it in satisfaction of his debt. Hairston had borrowed the automobile from Moore, and was using it for the transportation of contrabrand liquor when it was seized. Mundy had not at any time information of the use of the automobile to carry contrabrand liquor or of any intention so to use it. No claim was made by the purchaser Moore.

The District Court held that the rights of Mundy under the deed of trust were unaffected by the forfeiture and that the proceeds of sale should be first applied in satisfaction of his debt and only the balance paid into the Treasury.

In United States *v.* One Saxon Automobile, W. P. Mundy, Claimant, decided Jan. 7, 1919, by the Circuit Court of Appeals of the Fourth Circuit, the District Court was reversed. Woods, J., delivering the opinion of the court, said in part:

"No doubt has ever existed of the power of Congress to impose the penalty of forfeiture on property used to defeat the revenue laws without respect to the guilt of the owner or his knowledge of the unlawful use. Such a statute for the raising of revenue even when containing provisions of a highly penal nature is still to be construed as a whole and in a fair and reasonable manner and not strictly in favor of a claimant. United States *v.* Sugar, 7 Peters 453; United States *v.* Stowell, 133 U. S. 1; United States *v.* Graf Distilling Co., 208 U. S. 198. A strong consideration against any forced con-

struction of the statute to meet the hardship of a particular case is that the law provides for relief from the forfeiture in proper cases by an executive official, and courts should always indulge the presumption that his discretion will be wisely and justly exercised. Nevertheless if the inference of intention to exempt from forfeiture the property of an innocent owner can be drawn by any reasonable and fair construction of language of the statute that construction will be adopted. This rule of construction has been extended without dissent to protect the innocent owner of property from forfeiture, even when provided by a statute which expresses no limitation or exemption of any kind, where the property has been taken by a trespasser or a thief, or the owner has been deprived of the possession by forces of nature beyond his control. This is for the reason that no right of possession or custody can be acquired by or from a trespasser or thief, or by virtue of the forces of nature against the will of the owner. In such case, the owner of the property has never in a legal sense parted with any right of custody or possession, and hence no statute can operate against his title by reason of the use or custody or possession of the thief or trespasser, or his deprivation of it by the forces of nature. This reasoning obviously does not apply when the owner voluntarily parts with his possession and entrusts his ship or vehicle to another, for in that case the owner is charged with knowledge that the person to whom he has relinquished possession, or some one acquiring the possession from him, may so use the property as to defeat the collection of the revenue, and thus bring it under the condemnation of forfeiture. While the principle is not elaborated, this we think was the distinction in the mind of Chief Justice Marshal in Peisch *v.* Ware, 4 Cr. 347. The principle was applied in holding that all previous liens on vessels are overridden by forfeiture in prize cases, the court saying if it were otherwise, ship owners could in all cases defeat forfeiture by giving mortgages on their ships. The Hampton, 5 Wall. 372; The Battle, 6 Wall. 498; The Siren, 7 Wall. 152.

"The same practical considerations apply with force to the use of automobiles in violation of the statute now before us. The enforcement of the revenue statute concerning transportation of liquor is difficult, because of the facility with which automobiles may be used for that purpose without detection. If one thus engaged in illicit transportation could protect his automobile from forfeiture on proof that the legal title was in some one else, or that some one else had a mortgage on it, the difficulty of enforcing the law would be greatly increased, and the penalty of forfeiture almost always evaded.

"It seems to us the statute requiring forfeiture is explicit, leaving no room for construction. It is true that it is not violated unless the liquor is removed with intent to defraud the United States of the taxes. But when fraud in the removal is shown, the statute pro-

vides that the conveyance used for the purpose shall be forfeited. There is no limitation or exception that the forfeiture shall depend upon proof of fraud in the owner of the conveyance or on any other condition.

"This court, it is true, in the United States *v.* Two Barrels of Whiskey, 96 Fed. 479, decided in 1899, where the facts were in substance precisely the same as in this case, held in effect that the limiting words 'with intent to defraud' applied not only to the act of transportation, but also to the use of the particular conveyance, thus making it a necessary condition of the forfeiture of any interest in the vehicle that the owner of such interest should have an intent to defraud. As reluctant as we are to overrule that decision, we can find no warrant in the statute for attaching this limitation to the use of the conveyance. The court cited in support of its conclusion, United States *v.* Stowell, 133 U. S. 1. An examination of that case leads irresistibly to the conclusion that it not only does not support the inference that under such a statute the innocent owner or lienor of the offending conveyance is exempt from forfeiture, but suggests exactly the opposite inference. * * *

"There are a number of decisions like United States *v.* 1150½ Pounds of Celluloid, 82 Fed. 627; Shawnee National Bank *v.* United States, 249 Fed. 583; United States *v.* One Automobile, 237 Fed. 891, in which courts have been able to find, sometimes by somewhat forced construction, such limitations on the forfeiture provided as to exempt an innocent owner or lienor. It is sufficient to say as to the statute now under consideration that such an exemption could only rest upon judicial insertion of limiting words not found in the statute."

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**Trees and Timber—Conveyance—Time for Removal.**—In Houston Oil Co. *v.* Boykin, 206 S. W. 815, the Supreme Court of Texas held that under a contract of sale of standing timber, giving purchaser liberty to go upon land and remove timber as would be convenient to him, title passed to only so much of the timber as might be removed within a reasonable time, since removal clauses should not be construed as covenants.

The court said:

"The adjudged cases are generally in accord, and meet our approval, in construing instruments like the above, which merely convey timber with a license to remove same, without stipulating the time within which it may or must be removed, as implying the removal of the timber within a reasonable time. 17 R. C. L. 1082; Montgomery County Devel. Co. *v.* Miller-Vidor Lumber Co., 139 S. W. 1020 (3).

"The cases are in utmost conflict, however, in declaring the legal consequences of clauses in conveyances of growing timber, express